

JUDGE FAILLA

LEE LITIGATION GROUP, PLLC
C.K. Lee (CL 4086)
Anne Seelig (AS 3976)
30 East 39th Street, Second Floor
New York, NY 10016
Tel.: 212-465-1188
Fax: 212-465-1181
*Attorneys for Plaintiffs, FLSA Collective
Plaintiffs and the Class*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMMA RIVERA and LOURDES RIVERA,
*on behalf of themselves, FLSA Collective Plaintiffs
and the Class,*

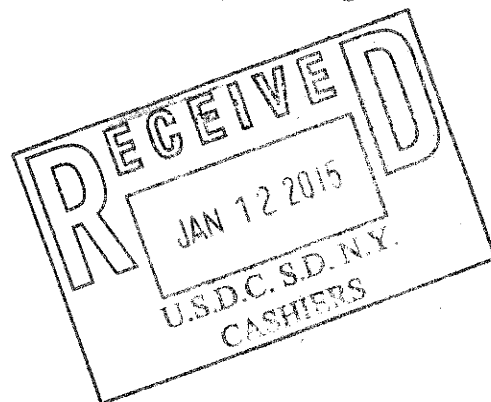
Plaintiffs,

v.

'WICHCRAFT OPERATING LLC,
'WICHCRAFT MANAGEMENT LLC,
'WICHCRAFT CHELSEA PIERS LLC,
CLUSTER AMENITIES NO.1 LLC,
ARE-SPECIAL SERVICES LLC,
WICHCRAFT INVESTORS LLC,
THOMAS COLICCHIO, SISHA ORTUZAR,
JEFFREY ZUROFSKY, MIKE BARBERA,
ELLEN KIM, CHRIS MEISSNER, PHILIP M.
COLICCHIO, JEANNE DONOVAN
FISHER, KENNETH M. KRAMER,
PETER JOSEPH NELSON,
and ROBERT G. SCOTT,

Defendants.

15 CV 00207



Case No.:

**CLASS AND COLLECTIVE
ACTION COMPLAINT**

Jury Trial Demanded

Plaintiffs, EMMA RIVERA and LOURDES RIVERA (herein, "Plaintiffs"), on behalf of themselves and others similarly situated, by and through their undersigned attorneys, hereby file this class and collective action Complaint against Defendants, 'WICHCRAFT OPERATING

LLC, 'WICHCRAFT MANAGEMENT LLC, 'WICHCRAFT CHELSEA PIERS LLC, CLUSTER AMENITIES NO.1 LLC, ARE-SPECIAL SERVICES LLC, WICHCRAFT INVESTORS LLC, THOMAS COLICCHIO, SISHA ORTUZAR, JEFFREY ZUROFSKY, MIKE BARBERA, ELLEN KIM, CHRIS MEISSNER, PHILIP M. COLICCHIO, JEANNE DONOVAN FISHER, KENNETH M. KRAMER, PETER JOSEPH NELSON, and ROBERT G. SCOTT, (together "Individual Defendants" and collectively with the Corporate Defendants, the "Defendants") and state as follows:

INTRODUCTION

1. Plaintiffs allege, pursuant to the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201 *et. seq.* ("FLSA"), that they are entitled to recover from Defendants: (1) unpaid overtime, (2) unpaid minimum wages, (3) unpaid wages for off-the-clock work caused by time-shaving, (4) illegally retained gratuities due to Defendants' illegal tip-pooling scheme, (5) liquidated damages, and (6) attorneys' fees and costs.

2. Plaintiffs further allege that, pursuant to the New York Labor Law ("NYLL"), they are entitled to recover from Defendants: (1) unpaid overtime, (2) unpaid minimum wages, (3) unpaid wages for off-the-clock work caused by time-shaving, (4) illegally retained gratuities due to Defendants' illegal tip-pooling scheme, (5) improper meal credit deductions, (6) costs of maintaining uniforms, (7) statutory penalties, (8) liquidated damages, and (9) attorneys' fees and costs.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this controversy pursuant to 29 U.S.C. § 216(b), 28 U.S.C. §§ 1331, 1337 and 1343 and has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

4. This Court has jurisdiction over this controversy pursuant to 29 U.S.C. § 216(b), 28 U.S.C. §§ 1331, 1337 and 1343 and has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in the Southern District pursuant to 28 U.S.C. § 1391.

PARTIES

6. Plaintiff, LOURDES RIVERA, is a resident of Queens County, New York.

7. Plaintiff, EMMA RIVERA, is a resident of Queens County, New York.

8. The Corporate Defendants, directly and indirectly, jointly own and operate all the 'Wichcraft Restaurants (defined below, along with each branch location) as a single integrated enterprise. The central office where all Defendants operate the 'Wichcraft Restaurants is located at 11 EAST 20TH STREET, NEW YORK, NEW YORK 10003.

9. Corporate Defendant 'WICHCRAFT OPERATING LLC is a domestic limited liability company organized under the laws of the State of New York, with a principal place of business located at 641 WEST 27TH STREET, NEW YORK, NEW YORK 10001 and an address for service of process located at 11 EAST 20TH STREET, NEW YORK, NEW YORK 10003. Defendant 'WICHCRAFT OPERATING LLC, together with other Defendants, jointly operates the 'Wichcraft Restaurants in Bryant Park, Bryant Park Southwest Porch, the Cube, Flatiron, Lincoln Center, Midtown, the Tunnel, the Village, and West Chelsea locations, among others.

10. Corporate Defendant 'WICHCRAFT MANAGEMENT LLC is a domestic limited liability company organized under the laws of the State of New York, with a principal place of business located at 99 PARK AVENUE ROOM 1703, NEW YORK, NEW YORK 10016 and an address for service of process located at 11 EAST 20TH STREET, NEW YORK, NEW YORK

10003. Defendant 'WICHCRAFT MANAGEMENT LLC, together with other Defendants, jointly operates the 'Wichcraft Restaurants, including the Tribeca location, among others. Defendant 'WICHCRAFT MANAGEMENT LLC is also a principal of the 'Wichcraft Cube and the Tunnel locations.

11. Corporate Defendant 'WICHCRAFT CHELSEA PIERS LLC is a domestic limited liability company organized under the laws of the State of New York, with an address for service of process located at 11 EAST 20TH STREET, NEW YORK, NEW YORK 10003. Defendant 'WICHCRAFT CHELSEA PIERS LLC, together with other Defendants, jointly operates the 'Wichcraft Restaurants, including the West Chelsea location, among others.

12. Corporate Defendant CLUSTER AMENITIES NO.1 LLC is a foreign limited liability company organized under the laws of the State of New York, with a principal place of business located at 450 EAST 29TH STREET, 2ND FLOOR, NEW YORK, NEW YORK 10016 and an address for service of process located at 80 STATE STREET, ALBANY, NEW YORK, 12207. Defendant CLUSTER AMENITIES NO.1 LLC, together with other Defendants, jointly operates the 'Wichcraft Restaurants, including the Cube location, among others. Defendant CLUSTER AMENITIES NO.1 LLC is also one of the principals of the Cube location.

13. Corporate Defendant ARE-SPECIAL SERVICES LLC is a foreign limited liability company organized under the laws of the State of New York, with an address for service of process located at 80 STATE STREET, ALBANY, NEW YORK, 12207. ARE-SPECIAL SERVICES LLC is one of the principals of the 'Wichcraft Cube restaurant.

14. Upon information and belief, Corporate Defendant WICHCRAFT INVESTORS LLC is a domestic corporation organized under the laws of the State of Delaware. Defendant

WICHCRAFT INVESTORS LLC is a principal of the 'Wichcraft Restaurants, including the Bryant Park and the Cube locations, among others.

15. Defendants operate a chain of restaurants (herein, collectively "Wichcraft Restaurants") under the trade name "Wichcraft." Such restaurant enterprise includes the following restaurants operating at the following names (referred to as such herein) and locations:

'Wichcraft Bryant Park, 11 West 40th Street, New York, NY 10018.

'Wichcraft Chelsea Piers, Pier 62 at 12th Avenue, Chelsea Piers, NY 10011.

'Wichcraft The Cube, 440 East 29th Street, New York, NY 10016.

'Wichcraft Flatiron, 11 East 20th Street, New York, NY 10003.

'Wichcraft Lincoln Center, 61 West 62nd Street, New York, NY 10023.

'Wichcraft Midtown, 555 5th Avenue, New York, NY 10037.

'Wichcraft Midtown East, 245 Park Avenue, New York, NY 10017.

'Wichcraft NYPL Performing Arts, 40 Lincoln Center Plaza, New York, NY
10023.

'Wichcraft Rockefeller Center, 1 Rockefeller Plaza, New York, NY 10020.

'Wichcraft Southwest Porch, 11 West 40th Street, New York, NY 10018.

'Wichcraft Tribeca, 397 Greenwich Street, New York, NY 10013.

'Wichcraft The Tunnel, 269 11th Avenue, New York, NY 10011.

'Wichcraft The Village, 60 East 8th Street, New York, NY 10003.

'Wichcraft West Chelsea, 601 West 26th Street, New York, NY 10001.

'Wichcraft Westfield Centre, 868 Mission Street, San Francisco, CA 94103.

16. The 'Wichcraft Restaurants are operated and marketed by Defendants as a single integrated enterprise and share the same employment policies. Each of the 'Wichcraft

Restaurants is advertised and marketed jointly at Defendants' website located at www.wichcraft.com (herein, the "Wichcraft website" or the "main website"). See **EXHIBIT A**, 'Wichcraft Website's Home Page. The 'Wichcraft Restaurants are owned and operated by celebrity chef and Defendant, THOMAS COLICCHIO, and his two partners, Defendants SISHA ORTUZAR and JEFFREY ZUROFSKY. Employment opportunities are jointly advertised at the main website, and applicants can apply for all of the 'Wichcraft Restaurants online at <https://my.peoplesmatter.com/wichcraft/hire>. See **EXHIBIT B**, 'Wichcraft Website's "Careers at 'Wichcraft" Page; **EXHIBIT C**, 'Wichcraft Job Application Website's "Select a Location" Page. Further, online orders and booking for catering at any of the 'Wichcraft Restaurants are made through the main website and from the same restaurant menu and the same catering menus. **EXHIBIT D**, 'Wichcraft Website's "Our Menu" Page; **EXHIBIT E**, 'Wichcraft New York City Restaurants' Catering Menu. Merchandise and supplies are shared among the 'Wichcraft Restaurants. All of the 'Wichcraft Restaurants are administered by a central office that makes all human resources, legal, marketing and operating decisions.

17. Each of Individual Defendants, THOMAS COLICCHIO, SISHA ORTUZAR, JEFFREY ZUROFSKY, MIKE BARBERA, ELLEN KIM, CHRIS MEISSNER, PHILIP M. COLICCHIO, JEANNE DONOVAN FISHER, KENNETH M. KRAMER, PETER JOSEPH NELSON, and ROBERT G. SCOTT, had operational control of each of the 'Wichcraft Restaurants. Each of them exercised control over the terms and conditions of the employment of Plaintiffs, FLSA Collective Plaintiffs and Class members. Each of them had the power and authority to (i) fire and hire, (ii) determine rate and method of pay, (iii) determine work schedules, and (iv) otherwise affect the quality of employment of Plaintiffs, FLSA Collective

Plaintiffs and Class members. Each of them had the power and authority to supervise and control supervisors of Plaintiffs, FLSA Collective Plaintiffs and Class members. Specifically:

- a. Defendant THOMAS COLICCHIO is the founder and partner of the 'Wichcraft Restaurants. As the winner of five James Beard Awards, he is a celebrity chef who has appeared as the head judge on the television cooking series "Top Chef." With Defendants SISHA ORTUZAR and JEFFREY ZUROFSKY, he opened the first 'Wichcraft location in 2003. Defendant THOMAS COLICCHIO is a principal of each of the fifteen New York 'Wichcraft locations.
- b. Defendant SISHA ORTUZAR is a Co-CEO, partner, creative director and chef of the 'Wichcraft Restaurants. Defendant SISHA ORTUZAR is a principal of each of the fifteen New York 'Wichcraft locations.
- c. Defendant JEFFREY ZUROFSKY is a Co-CEO and partner of the 'Wichcraft Restaurants and oversees finance and business development for the business. Defendant JEFFREY ZUROFSKY is a principal of each of the fifteen New York 'Wichcraft locations.
- d. Defendant MIKE BARBERA is the executive chef and director of food and beverage, responsible for creating and managing the menu and overseeing food production for the 'Wichcraft Restaurants. Defendant MIKE BARBERA is a principal of each of the fifteen New York 'Wichcraft locations.
- e. Defendant ELLEN KIM is the director of marketing and business development at the 'Wichcraft Restaurants. In this capacity, she oversees marketing, communications, press, public relations, business development, and partnerships.

Defendant ELLEN KIM is a principal of each of the fifteen New York 'Wichcraft locations.

- f. Defendant CHRIS MEISSNER is the supply chain manager at the 'Wichcraft Restaurants. He assists in managing purchasing, internal distribution, and general logistics. Defendant CHRIS MEISSNER is a principal of each of the fifteen New York 'Wichcraft locations.
- g. Defendant PHILIP M. COLICCHIO is the younger brother of Defendant THOMAS COLICCHIO and a principal of each of the fifteen New York 'Wichcraft Restaurants, including but not limited to the Bryant Park, Bryant Park Southwest Porch, Chelsea Piers, the Cube, Flatiron, Midtown, Rockefeller Center, Tribeca, Tunnel, the Village, and West Chelsea locations.
- h. Defendant JEANNE DONOVAN FISHER is a principal of each of the fifteen New York 'Wichcraft Restaurants, including but not limited to the Bryant Park, Bryant Park Southwest Porch, Chelsea Piers, the Cube, Flatiron, Lincoln Center, Midtown, Rockefeller Center, Tribeca, Tunnel, the Village, and West Chelsea locations.
- i. Defendant KENNETH M. KRAMER is a principal of each of the fifteen New York 'Wichcraft Restaurants, including but not limited to the Cube location.
- j. Defendant PETER JOSEPH NELSON is a principal of each of the fifteen New York 'Wichcraft Restaurants, including but not limited to the Cube location.
- k. Defendant ROBERT G. SCOTT is a principal of each of the fifteen New York 'Wichcraft Restaurants, including but not limited to the Bryant Park, Bryant Park

Southwest Porch, Chelsea Piers, the Cube, Flatiron, Lincoln Center, Midtown, Rockefeller Center, Tribeca, Tunnel, the Village, and West Chelsea locations.

18. At all relevant times, Corporate Defendants were and continue to be an “enterprise engaged in commerce” within the meaning of the FLSA.

19. At all relevant times, the work performed by Plaintiffs was directly essential to the businesses operated by Defendants.

FLSA COLLECTIVE ACTION ALLEGATIONS

20. Plaintiffs bring claims for relief as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf of all non-exempt persons employed by Defendants, including baristas, bartenders, packers, counter persons, porters, delivery persons, cooks, pastry cooks, grill cooks, food preparers, hosts and cashiers on or after the date that is six years before the filing of the Complaint in this case as defined herein (herein, “FLSA Collective Plaintiffs”).

21. At all relevant times, Plaintiffs and other FLSA Collective Plaintiffs are and have been similarly situated, have had substantially similar job requirements and pay provisions, and are and have been subjected to Defendants’ decisions, policies, plans, programs, practices, procedures, protocols, routines, and rules, all culminating in a willful failure and refusal to pay them compensation for all hours worked due to Defendants’ policy of time-shaving and the proper overtime premiums at the rate of one and one half times the regular rate for work in excess of forty (40) hours per workweek. In addition, Plaintiffs and other FLSA Collective Plaintiffs who were tipped employees, including baristas, bartenders, and delivery persons, claim that Defendants willfully violated their rights by failing to pay their minimum wages in the lawful amount for hours worked. Defendants paid Plaintiffs and other tipped employees at the invalid “tip credit” minimum wage, which was less than the federal minimum wage. Defendants,

however, were not entitled to take any tip credits under the FLSA because, with respect to Plaintiffs and other tipped employees, Defendants (i) failed to properly provide tip credit notice at hiring and annually thereafter, (ii) failed to inform that the tip credit claimed by Defendants cannot exceed the amount of tips actually received by the tipped employees, (iii) failed to inform that all tips received by them are to be retained by them except pursuant to a valid tip pooling arrangement, (iv) failed to inform that tip credit will not apply unless tipped employees have been informed of the foregoing tip credit notice requirement, (v) claimed tip credit for all hours worked despite having caused tipped employees to engage in non-tipped duties for hours exceeding 20% of the total hours worked each workweek, (vi) implemented an invalid tip pooling scheme in which Defendants shared in the tips and (vii) failed to meet other statutory requirements for taking a valid tip credit under the FLSA. Moreover, Plaintiffs and tipped employees claim that Defendants illegally retained gratuities. The claims of Plaintiffs stated herein are essentially the same as those of other FLSA Collective Plaintiffs.

22. The claims for relief are properly brought under and maintained as an opt-in collective action pursuant to § 16(b) of the FLSA, 29 U.S.C. 216(b). The FLSA Collective Plaintiffs are readily ascertainable. For purposes of notice and other purposes related to this action, their names and addresses are readily available from the Defendants. Notice can be provided to FLSA Collective Plaintiffs via first class mail to the last address known to Defendants.

RULE 23 CLASS ALLEGATIONS – NEW YORK

23. Plaintiffs bring claims for relief pursuant to the Federal Rules of Civil Procedure (“F.R.C.P.”) Rule 23, on behalf of all non-exempt persons employed by Defendants, including baristas, bartenders, packers, counter persons, porters, delivery persons, cooks, pastry cooks, grill

cooks, food preparers, hosts and cashiers, employed by Defendants on or after the date that is six years before the filing of the Complaint in this case as defined herein (the “Class Period”).

24. All said persons, including Plaintiffs, are referred to herein as the “Class.” The Class members are readily ascertainable. The number and identity of the Class members are determinable from the records of Defendants. The hours assigned and worked, the position held, and rates of pay for each Class member are also determinable from Defendants’ records. For purposes of notice and other purposes related to this action, their names and addresses are readily available from Defendants. Notice can be provided by means permissible under F.R.C.P. 23.

25. The proposed Class is numerous that a joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the Court. Although the precise number of such persons is unknown, the facts on which the calculation of that number are presently within the sole control of Defendants, there is no doubt that there are more than forty (40) members of the Class.

26. Plaintiffs’ claims are typical of those claims, which could be alleged by any member of the Class, and the relief sought is typical of the relief, which would be sought by each member of the Class in separate actions. All the Class members were subject to the same corporate practices of Defendants, as alleged herein, of (i) failing to pay overtime premiums for hours worked in excess of forty (40) in a workweek, (ii) failing to pay compensation for all hours worked, including off-the-clock work, (iii) improperly deducting meal credit allowance, (iv) failing to provide Class members a proper wage statement with every payment of wages, (v) failing to properly provide wage notices to Class members, at date of hiring and annually, per requirements of the New York Labor Law. In addition, a subclass of Class members who were tipped employees, including baristas, bartenders, and delivery persons (the “Tipped Subclass”),

suffered from Defendants' failure to pay minimum wage due to Defendants' invalid tip credit allowance because Defendants (i) failed to properly provide tip credit notice at hiring and annually thereafter, (ii) claimed tip credit for all hours worked despite having caused tipped employees to engage in non-tipped duties for hours exceeding 20% of the total hours worked each workweek, (iii) implemented an invalid tip pooling scheme in which Defendants shared in the tips, (iv) failed to provide proper wage statements clearing indicating tip credit allowance for each payment period, and (v) failed to accurately keep track of daily tips earned and maintain records thereof. Defendants' corporate-wide policies and practices affected all Class members similarly, and Defendants benefited from the same type of unfair and/or wrongful acts as to each Class member. Plaintiffs and other Class members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

27. Plaintiffs are able to fairly and adequately protect the interests of the Class and have no interests antagonistic to the Class. Plaintiffs are represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented Plaintiffs in wage and hour cases.

28. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of the wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similarly situated persons to prosecute common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because of losses, injuries and damages suffered by each of the individual Class members are small in the sense pertinent to a class action analysis, the expenses and burden of

individual litigation would make it extremely difficult or impossible for the individual Class members to redress the wrongs done to them. On the other hand, important public interests will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of Court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and/or varying adjudications with respect to the individual members of the Class, establishing incompatible standards of conduct for Defendant and resulting in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the Court can, and is empowered to, fashion methods to efficiently manage this action as a class action.

29. Defendants and other employers throughout the state violate the New York Labor Law. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing claims because doing so can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the Complaint a degree of anonymity, which allows for the vindication of their rights while eliminating or reducing these risks.

30. There are questions of law and fact common to the Class which predominate over any questions affecting only individual class members, including:

- a. Whether Defendants employed Plaintiffs and the Class within the meaning of the New York law;

- b. What are and were the policies, practices, programs, procedures, protocols and plans of Defendants regarding the types of work and labor for which Defendants did not properly pay Plaintiffs and the Class members;
- c. At what common rate, or rates subject to common methods of calculation, was and are Defendants required to pay Plaintiffs and the Class members for their work;
- d. Whether Defendants properly notified Plaintiffs and the Class members of their hourly rates and overtime rates;
- e. Whether Defendants properly provided notice to all tipped employees that Defendants were taking a tip credit;
- f. Whether Defendants accurately tracked the amount of tips earned each day and maintained records thereof;
- g. Whether Defendants caused tipped employees to engage in non-tipped duties exceeding 20% of each workweek;
- h. Whether Defendants took proper amount of tip credit allowance for each payment period under the New York Labor Law;
- i. Whether Defendants retained a portion of the service charge for their catering services, while representing or allowing their customers to believe that the charges were gratuities for their tipped employees;
- j. Whether Defendants provided proper wage statements informing (i) tipped employees of the amount of tip credit taken for each payment period, their proper overtime rate of compensation and (ii) all non-exempt employees of information required to be provided on wage statements under the New York Labor Law;

- k. Whether Defendants provided proper wage notice, at date of hiring and annually thereafter, to all non-exempt employees per requirements of the New York Labor Law;
- l. Whether Defendants established an invalid tip pooling arrangement by illegally retaining portions of Plaintiffs and the Tipped Subclass members' tips from catered event customers;
- m. Whether Defendants paid Plaintiffs and Tipped Subclass members the federal and state minimum wage for all hours worked;
- n. Whether Defendants properly compensated Plaintiffs and Class members for overtime under state and federal law;
- o. Whether Defendants paid Plaintiffs and Class members for all hours worked given Defendants' illegal policy of time-shaving;
- p. Whether Defendants paid Plaintiffs and Class members costs of maintaining uniforms; and
- q. Whether Defendants claimed an invalid meal credit.

STATEMENT OF FACTS

31. Marketing itself as a provider of sandwiches made of fresh ingredients often sourced from local farms and businesses, 'Wichcraft's business consists primarily of two components – traditional restaurant and event catering. For restaurant service, 'Wichcraft sells its sandwiches and other foods at the fifteen locations throughout New York City and at one location in San Francisco. As for catering, 'Wichcraft purports to serve and customize for any and all occasions. Prospective customers can choose from five different event catering menus online (reception, bar, buffet, casual buffet, and terrace cookout) and choose, if they wish, from 'Wichcraft's

twelve event venues including the atrium at Lincoln Center, the New York Public Library, and the carousel at Bryant Park.

32. In or about April 2010, Plaintiff LOURDES RIVERA was hired by Defendants to work as a delivery person for Defendant at the 'Wichcraft Village restaurant location at 60 East 8th Street, New York, New York 10003.

33. Plaintiff LOURDES RIVERA is still employed with Defendants as of the date of this Complaint.

34. During the employment of Plaintiff LOURDES RIVERA by Defendants, she was scheduled to work up to forty (40) hours per week. (a) From in or about April 2010 to March 2013, she had a regular weekly schedule of 8:00 a.m. to 4:00 p.m. for five (5) days per week, totaling 40 hours per week. (b) From in or about April 2013 to June 2013, her regular weekly schedule was from 9 a.m. to 3:30 p.m. for five (5) days per week, totaling 33 hours per week. (c) From in or about July 2014 to the present, Plaintiff LOURDES RIVERA has had a regular weekly schedule of 7:30 a.m. to 1 p.m. for five (5) days per week, totaling 27 and a half hours. In addition to her scheduled hours, Plaintiff LOURDES RIVERA worked off-the-clock for half an hour each day changing into and out of the required uniforms.

35. Plaintiff LOURDES RIVERA was paid below the federal and New York State minimum wage. Specifically, from in or about April 2010 to December 31, 2013, she was paid at a rate of \$5.25 per hour. From January 1, 2014, to the present, she has been paid at an hourly rate of \$5.65. At all times, Plaintiff LOURDES RIVERA has been a tipped employee. Prior to January 1, 2014, all delivery persons were improperly paid at \$5.25 per hour, which was even below the "tip credit" minimum wage of \$5.65 for delivery workers.

36. On or about April 30, 2009, Plaintiff EMMA RIVERA was hired by Defendants to work as a delivery person for Defendant at the 'Wichcraft Village restaurant location at 60 East 8th Street, New York, New York 10003.

37. Plaintiff EMMA RIVERA is still employed with Defendants as of the date of this Complaint.

38. During the employment of Plaintiff EMMA RIVERA by Defendants, she had a regular weekly schedule with Defendants. (a) From on or about April 30, 2009, to May 2013, she had a regular weekly schedule of 8:00 a.m. to 2:00 p.m. for six (6) days per week, totaling 36 hours per workweek. (b) From in or about June 2013 to May 2014, her regular weekly schedule was from 10 a.m. to 3 p.m. for five (5) days per week, totaling 25 hours per week. (c) From in or about June 2014 to the present, Plaintiff LOURDES RIVERA has had a regular weekly schedule of 7:30 a.m. to 1 p.m. for five (5) days per week, totaling 27 and a half hours. However, in addition to her scheduled hours, Plaintiff EMMA RIVERA worked off-the-clock for half an hour each day changing into and out of the required uniforms.

39. Plaintiff EMMA RIVERA was paid below the federal and New York State minimum wage. Specifically, from on or about April 30, 2009, to December 31, 2013, she was paid at a rate of \$5.25 per hour. From January 1, 2014, to the present, she has been paid at an hourly rate of \$5.65. At all times, Plaintiff EMMA RIVERA has been a tipped employee. Prior to January 1, 2014, all delivery persons were improperly paid at \$5.25 per hour, which was even below the "tip credit" minimum wage of \$5.65 for delivery workers.

40. Plaintiffs EMMA RIVERA, LOURDES RIVERA, other FLSA Collective Plaintiffs and Class members were not properly compensated for their regular and overtime hours actually worked due to Defendants' policy of time-shaving. All non-exempt employees at all 'Wichcraft

Restaurants were required by Defendants to wear all black uniform that included a hat and a shirt, each with the 'Wichcraft logo. At all relevant times, , when Plaintiffs EMMA RIVERA and LOURDES RIVERA arrived fifteen (15) minutes early to change into their uniforms and started work prior to their shifts, they were not allowed to punch the time clock until their shifts began. Plaintiffs EMMA RIVERA and LOURDES RIVERA were also forced to punch out at the end of their shifts before they changed out of the uniform, which took another fifteen (15) minutes. Such policy of time-shaving was prevalent at each of the 'Wichcraft Restaurants and applied to all other non-exempt employees. Under Defendants' policy of time-shaving, Plaintiff LOURDES RIVERA, FLSA Collective Plaintiffs and Class members did not properly receive their premiums for overtime hours because the hours worked as reflected in the wage statements were incorrect. Moreover, under Defendants' policy of time-shaving, Plaintiff EMMA RIVERA, FLSA Collective Plaintiffs and Class members did not properly receive minimum wage for regular hours because the hours worked as reflected in the wage statements were incorrect.

41. Defendants required Plaintiff LOURDES RIVERA, other FLSA Collective Plaintiffs and Class members to maintain their uniforms. However, Defendants did not pay them for the cost of cleaning their uniforms.

42. Plaintiff LOURDES RIVERA and other FLSA Collective Plaintiffs and Class members were not paid at the overtime premium rate of time and one half of regular hourly rate for each hour exceeding forty (40) hours per workweek. For the weeks that Plaintiff LOURDES RIVERA was scheduled to work forty (40) hours, Defendants required her to spend additional time in excess of the scheduled forty (40) hours per week changing into uniform before clocking in and changing out of uniform after clocking out. However, Defendants failed to pay Plaintiff

LOURDES RIVERA the proper overtime premium for the time that she spent changing in and out of her 'Wichcraft uniform off-the-clock.

43. Plaintiffs LOURDES RIVERA, EMMA RIVERA, other FLSA Collective Plaintiffs who were tipped employees and the Tipped Subclass were paid below minimum wage. Defendants paid them at the invalid "tip credit" minimum wage of \$5.25 per hour prior to January 1, 2014, which was less than the federal and New York State minimum wages. In addition, with respect to Plaintiffs LOURDES RIVERA, EMMA RIVERA, other FLSA Collective Plaintiffs who were tipped employees and the Tipped Subclass, Defendants were not entitled to take any tip credit allowance under the FLSA or NYLL because Defendants (i) failed to properly provide tip credit notice in violation of the FLSA; (ii) failed to inform them that the tip credit claimed by Defendants cannot exceed the amount of tips actually received by them in violation of the FLSA; (iii) failed to inform that all tips received by them are to be retained by them except pursuant to a valid tip pooling arrangement in violation of the FLSA; (iv) failed to inform that tip credit will not apply unless they have been informed of the foregoing tip credit notice requirement in violation of the FLSA, (v) claimed tip credit for all hours worked despite having caused tipped employees to engage in non-tipped duties for hours exceeding 20% of the total hours worked each workweek in violation of the FLSA, (vi) illegally retained gratuities, (vii) implemented an invalid tip pooling because Defendants shared in the tips, (viii) failed to accurately track daily tips earned or maintain records thereof, (iv) failed to properly provide tip credit notice at hiring and annually thereafter in violation of the NYLL, and (x) failed to provide a proper wage statement with every payment of wages informing Plaintiffs and other tipped employees of the amount of tip credit deducted for each payment period, in violation of the NYLL.

44. Plaintiffs LOURDES RIVERA, EMMA RIVERA, FLSA Collective Plaintiffs who were tipped employees and the Tipped Subclass were required to engage more than 20% of their working time in non-tipped activities. For instance, 'Wichcraft's "Delivery Staff Job Description" given to employees clearly states that delivery persons such as Plaintiffs LOURDES RIVERA and EMMA RIVERA are to assist in "bussing tables, running food, maintaining cleanliness of store," "stocking beverages and paper products," and "food preparation," assist "other departments" for customer service, and to perform "other duties" as assigned by managers. Specifically, Plaintiffs LOURDES RIVERA and EMMA RIVERA spent more than 70% of their time on performing non-tipped duties, as required by Defendants. Even though Defendants required the tipped employees to engage in non-tipped activities for hours exceeding 20% of the total hours worked each workweek, Defendants improperly claimed tip credit for all hours worked by the tipped employees.

45. Plaintiffs LOURDES RIVERA, EMMA RIVERA, FLSA Collective Plaintiffs who were tipped employees and the Tipped Subclass suffered from Defendants' retention of gratuities. For each catered event at the 'Wichcraft Restaurants, Defendants issued a receipt and collected from its customer a mandatory two (2) percent charge of the food and beverage subtotal until in or about September 2014. From then on, Defendants increased the charge to three (3) percent. However, at all relevant times, whether such charge was a gratuity was unclear to the customers, allowing the customers to believe that the charge was a gratuity for the tipped employees. At all relevant times, Defendants failed to provide adequate notification to private-event customers that the charges were for administration, were not purported to be a gratuity and would not be distributed as gratuities to employees. At all 'Wichcraft Restaurants, Defendants established an invalid tip pooling policy where Defendants' management retained and shared in

the tips of the tipped employees even though they did not serve customers. Such improper tip pooling policy invalidates Defendants tip credit allowance.

46. Defendants improperly assessed cost of meals to Plaintiffs LOURDES RIVERA, EMMA RIVERA and the Class members while improperly claiming a meal credit, in violation of the New York Labor Law. Plaintiffs and Class members were not properly notified that Defendants were claiming a meal credit, and meals served did not satisfy the regulatory requirements under the New York Labor Law. Plaintiffs and Class members were not given the requisite amount of break time in which to eat, in violation of the New York Labor Law.

47. Defendants failed to properly provide Plaintiffs LOURDES RIVERA, EMMA RIVERA and the Class members with proper wage notices at hiring and annually thereafter. Specifically, Plaintiff LOURDES RIVERA received wage notices at hiring in April 2009 and only one additional time even though she should have received a notice every year since the date of hiring. Further, Plaintiffs LOURDES RIVERA, EMMA RIVERA and the Tipped Subclass members received tip credit notices that were not in compliance with the FLSA and the New York Labor Law because they contained a pay rate that was even lower than that required under the prevailing law during the relevant statutory period. Moreover, Defendants failed to provide Class members with wage notices required under the New York Labor Law on or before February first of each year of their employment by Defendants.

48. Plaintiffs LOURDES RIVERA, EMMA RIVERA and Class members received wage statements that were not in compliance with the New York Labor Law. Defendants were required to provide itemized listings of deductions taken on a wage statement with every payment of wages. With respect to tipped employees, however, Defendants failed to satisfy the requirements under the NYLL because the wage statements did not clearly include tip credit

allowance for each payment period. Moreover, with respect to all non-exempt employees, Defendants provided wage statements that failed to clearly provide, among others, Defendants' address and phone number, overtime hours worked due to time-shaving, and overtime rate of pay.

49. Defendants knowingly and willfully operated their business with a policy of not paying either the FLSA overtime rate (of time and one-half) or the New York State overtime rate (of time and one-half) to Plaintiffs, FLSA Collective Plaintiffs and Class members.

50. Defendants knowingly and willfully operated their business with a policy of not paying either the FLSA minimum wage or the New York State minimum wage to Plaintiffs, FLSA Collective Plaintiffs and Class members due to the invalid tip credit that Defendants claimed.

51. Defendants knowingly and willfully operated their business with a policy of not providing proper wage statements as required under the New York Labor Law.

52. Defendants failed to provide proper wage notices to employees, including rate of overtime compensation, among others, at the beginning of employment and annually thereafter pursuant to the requirements of the New York Labor Law.

53. Defendants were aware of and tolerated their management's sexual harassment towards Plaintiff LOURDES RIVERA. On August 20, 2014, Plaintiff LOURDES RIVERA had just changed in the locker room when she noticed that she was being recorded by a cell phone hidden near the bottom of a locker. The cell phone belonged to another employee, Gregorio [Last Name Unknown]. The day after she immediately made an oral report to the management, 'Wichcraft's human resources office stated that it would conduct an investigation into the incident. However, the manager receiving the initial oral complaint deleted the video to "secure

[Plaintiff LOURDES RIVERA's] privacy,” and the human resources office also advised her to avoid filing a police report. Further, each time Plaintiff LOURDES RIVERA asks questions regarding the incident, ‘Wichcraft refused to continue the conversation and refused to provide a written report of the initial oral complaint. Meanwhile, ‘Wichcraft allowed the responsible employee Gregorio [Last Name Unknown] to continue his employment with ‘Wichcraft.

54. Defendants were aware of and tolerated their management’s gender discrimination towards Plaintiffs LOURDES RIVERA and EMMA RIVERA. Plaintiffs are the only female delivery employees during their shifts. When Plaintiffs were working with other male delivery employees, Defendant’s manager Shamar [Last Name Unknown] called Plaintiffs by offensive terms such as “bitch” and its Spanish counterpart “puta,” and “whore” in front of other delivery employees. Defendants tolerated such behavior of the management towards Plaintiffs LOURDES RIVERA and EMMA RIVERA.

55. Plaintiffs retained Lee Litigation Group, PLLC to represent Plaintiffs, FLSA Collective Plaintiffs and Class members, in this litigation and have agreed to pay the firm a reasonable fee for its services.

STATEMENT OF CLAIM

COUNT I

VIOLATION OF THE FAIR LABOR STANDARDS ACT

56. Plaintiffs reallege and reaver Paragraphs 1 through 55 of this class and collective action Complaint as if fully set forth herein.

57. At all relevant times, Defendants were and continue to be employers engaged in interstate commerce and/or the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207 (a). Further, Plaintiffs and FLSA Collective Plaintiffs are

covered individuals within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207 (a).

58. At all relevant times, Defendants employed Plaintiffs and FLSA Collective Plaintiffs within the meaning of the FLSA.

59. At all relevant times, each Corporate Defendant had gross annual revenues in excess of \$500,000.

60. At all relevant times, the Defendants had a policy and practice of refusing to pay overtime compensation at the statutory rate of time and one-half to Plaintiffs and FLSA Collective Plaintiffs for all hours worked in excess of forty (40) hours per workweek.

61. Defendants failed to pay Plaintiffs and FLSA Collective Plaintiffs overtime compensation in the lawful amount for hours worked in excess of the maximum hours provided for in the FLSA.

62. Defendants willfully violated rights of Plaintiffs and FLSA Collective Plaintiffs by failing to pay them minimum wages in the lawful amount for hours worked. Defendants, however, were not entitled to take any tip credits under the FLSA, because Defendants (i) failed to properly provide tip credit notice at hiring and annually thereafter, (ii) failed to inform that the tip credit claimed by Defendants could not exceed the amount of tips actually received by the tipped employees, (iii) failed to inform that all tips received by them are to be retained by them except pursuant to a valid tip pooling arrangement, (iv) failed to inform that tip credit would not apply unless tipped employees have been informed of the foregoing tip credit notice requirement, (v) claimed tip credit for all hours worked despite having caused tipped employees to engage in non-tipped duties for hours exceeding 20% of the total hours worked each workweek, (v) implemented an invalid tip pooling in which Defendants illegally retained gratuities, and (vi) failed to meet other statutory requirements for taking a valid tip credit under the FLSA. Plaintiffs

further claim that FLSA Collective Plaintiffs and they were subject to an illegal policy of time-shaving.

63. Defendants failed to pay Plaintiffs and FLSA Collective Plaintiffs compensation for all hours worked due to Defendants' policy of time-shaving.

64. Records, if any, concerning the number of hours worked by Plaintiffs and FLSA Collective Plaintiffs and the actual compensation paid to Plaintiffs and FLSA Collective Plaintiffs should be in the possession and custody of the Defendants. Plaintiffs intend to obtain these records by appropriate discovery proceedings to be taken promptly in this case and, if necessary, will then seek leave of Court to amend this Complaint to set forth the precise amount due.

65. Defendants knew of and/or showed a willful disregard for the provisions of the FLSA as evidenced by their failure to compensate Plaintiffs and FLSA Collective Plaintiffs at the statutory rate of time and one-half for their hours worked in excess of forty (40) hours per week when Defendants knew or should have known such was due.

66. Defendants failed to properly disclose or apprise Plaintiffs and FLSA Collective Plaintiffs of their rights under the FLSA.

67. As a direct and proximate result of Defendants' willful disregard of the FLSA, Plaintiffs and FLSA Collective Plaintiffs are entitled to liquidated (i.e., double) damages pursuant to the FLSA.

68. Due to the intentional, willful and unlawful acts of Defendants, Plaintiffs and FLSA Collective Plaintiffs suffered damages in an amount not presently ascertainable of unpaid minimum wages and unpaid overtime wages, plus an equal amount as liquidated damages.

69. Plaintiffs and FLSA Collective Plaintiffs are entitled to an award of their reasonable

attorneys' fees and costs pursuant to 29 U.S.C. §216(b).

COUNT II

VIOLATION OF THE NEW YORK LABOR LAW

70. Plaintiffs reallege and reaver Paragraphs 1 through 69 of this class and collective action Complaint as if fully set forth herein.

71. At all relevant times, Plaintiffs and Class members were employed by the Defendants within the meaning of the New York Labor Law, §§ 2 and 651.

72. Defendants willfully violated the rights of Plaintiffs and Class members by failing to pay them overtime compensation at the rate of not less than one and one-half times the regular rate of pay for each hour worked in excess of forty (40) hours in a workweek due to Defendants' time-shaving policy.

73. Defendants failed to properly notify employees of their overtime rate, in direct violation of the New York Labor Law.

74. Defendants willfully violated the rights of Plaintiffs and Tipped Subclass members by failing to pay Plaintiffs minimum wages in the lawful amount for hours worked. Defendants, however, were not entitled to take any tip credits under the NYLL, because they (i) failed to properly provide notice to all tipped employees, at date of hiring and annually thereafter, that Defendants were taking a tip credit, (ii) implemented an invalid tip pooling scheme in which Defendants shared in the tips, (iii) claimed tip credit for all hours worked despite having caused tipped employees to engage in non-tipped duties for hours exceeding 20% of the total hours worked each workweek, (iv) failed to provide a proper wage statement with every payment of wages informing tipped employees of the amount of tip credit taken for each payment period, and (v) failed to accurately keep track of tips earned and maintain records thereof.

75. Defendants knowingly and willfully operated their business with a policy of time-shaving. Defendants failed to compensate Plaintiffs and Class members for all hours worked in violation of NYLL.

76. Defendants knowingly and willfully operated their business with a policy of not providing proper wage statements as required under the New York Labor Law. Defendants are required to provide itemized listings of deductions taken on each wage statement. With respect to tipped employees, Defendants failed to satisfy the requirements under the NYLL because such tip credit allowance was never clearly included in wage statements to tipped employees for each payment period. Moreover, with respect to all employees, Defendants failed to provide wage statements that satisfied statutory requirements under the NYLL because the wage statements were missing Defendants' address and phone number and because Defendants failed to disclose the proper overtime rate of pay and overtime hours worked.

77. Defendants knowingly and willfully operated their business with a policy of not providing all non-exempt employees proper wage notice, at date of hiring and annually thereafter, as required under the New York Labor Law.

78. Defendants willfully violated Plaintiffs and Class members' rights by failing to pay for uniform maintenance costs as required under the New York Labor Law.

79. Defendants willfully violated the rights of Plaintiffs and Class members by improperly deducting costs of meals. Defendants' meal credit was invalid because Defendants failed to provide the requisite time in which to eat, in violation of the NYLL requirements.

80. Due to the Defendants' New York Labor Law violations, Plaintiffs and Class members are entitled to recover from Defendants unpaid overtime, unpaid minimum wage, unpaid compensation due to time-shaving, unpaid uniform maintenance costs, improper

deductions of meal credit, damages for unreasonably delayed payments, reasonable attorneys' fees, liquidated damages, statutory penalties and costs and disbursements of the action, pursuant to New York Labor Law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs on behalf of themselves, FLSA Collective Plaintiffs and Class members, respectfully request that this Court grant the following relief:

- a. A declaratory judgment that the practices complained of herein are unlawful under the FLSA and the New York Labor Law;
- b. An injunction against Defendants and their officers, agents, successors, employees, representatives and any and all persons acting in concert with them as provided by law, from engaging in each of the unlawful practices, policies and patterns set forth herein;
- c. An award of unpaid overtime compensation due under the FLSA and the New York Labor Law;
- d. An award of unpaid minimum wages due under the FLSA and the New York Labor Law;
- e. An award of liquidated and/or punitive damages as a result of Defendants' willful failure to pay overtime compensation and minimum wage pursuant to 29 U.S.C. § 216;
- f. An award of liquidated and/or punitive damages as a result of Defendants' willful failure to pay overtime compensation and minimum wage pursuant to the New York Labor Law;
- g. An award of unpaid compensation due to Defendants' time-shaving policy;

- h. An award equal to the amount of the improperly retained tips withheld by Defendants;
- i. An award of unpaid uniform maintenance costs and improper meal credit deductions due under the New York Labor Law;
- j. An award of prejudgment and postjudgment interest, costs and expenses of this action together with reasonable attorneys' and expert fees and statutory penalties;
- k. Designation of Plaintiffs as a Representatives of the FLSA Collective Plaintiffs;
- l. Designation of this action as a class action pursuant to F.R.C.P. 23;
- m. Designation of Plaintiffs as a Representatives of the Class; and
- n. Such other and further relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand trial by jury on all issues so triable as of right by jury.

Dated: January 12, 2015

Respectfully submitted,

LEE LITIGATION GROUP, PLLC
C.K. Lee (CL 4086)
Anne Seelig (AS 3976)
30 East 39th Street, Second Floor
New York, NY 10016
Tel.: 212-465-1188
Fax: 212-465-1181
*Attorneys for Plaintiffs, FLSA Collective
Plaintiffs and the Class*

By: _____

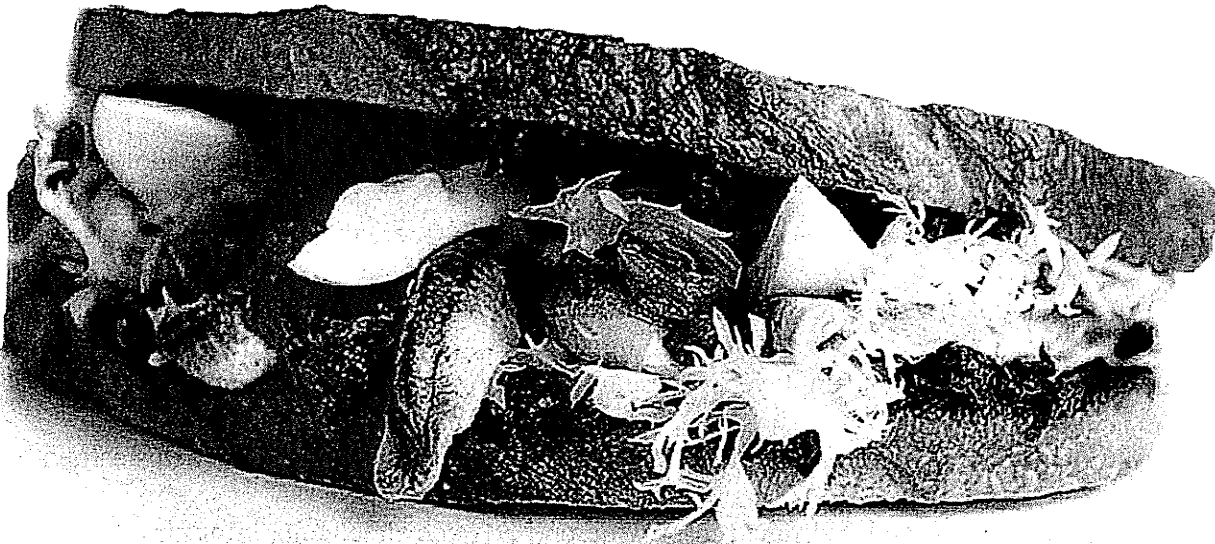
C.K. Lee

EXHIBIT A

wichcraft
order now (<http://wichcraft.com/wp-content/themes/betterboh/order>)
content/tl
(<http://wichcraft.com/>)
locations (<http://wichcraft.com/locations>)
(<http://wichcraft.com/>)
browse our
catering (<http://wichcraft.com/catering/>) events (<http://wichcraft.com/events/>)
seasonal menu
about (<http://wichcraft.com/about/>)

at your service what's new new menu additions subscribe to our newsletter

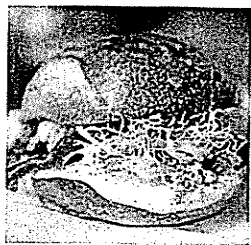
real food, hand-crafted



known for crafting sandwiches with high-quality, fresh ingredients, 'wichcraft puts a chef's expertise (</food/ingredients/>) into its menu of sandwiches. 'wichcraft has been at the forefront of the farm-to-table movement (</food/purveyors/>) with a commitment to sourcing ingredients from artisan producers (</food/purveyors/>) & supporting local farming (</food/purveyors/>) whenever possible. every ingredient is made from real food & nothing is filler, always resulting in a robust & balanced meal for breakfast, lunch, or dinner.

welcome to 'wichcraft, an innovative sandwich service like no other.

how can we help you today?



browse the menu

check out our seasonal fare, daily chef specials, and location-specific menus.

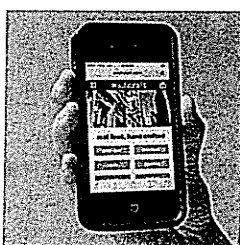
(/menu/)



hours & locations

we have 15 locations in nyc and 1 in sf. find a sandwich near you!

(/locations/)



order online

can't leave the office? we deliver! place an order online and you will have it in no time.

(<http://wichcraft.com/order/>)



cater a meal

looking to cater a meeting? our team is ready to take your order.

(/catering/)



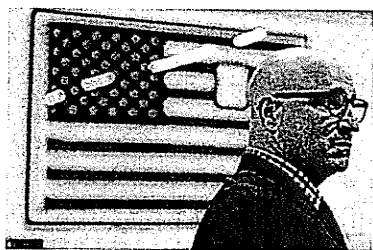
book an event

host your next event with us! look no further -- we've got you covered.

(/events/)

something else?

what's new



tom colicchio, citizen chef

read the new york times feature story about 'wichcraft co-founder, tom colicchio.

(<http://wichcraft.com/featured/featured-news/newyorktimes/>)



plan your party with us

impress your guests with a 'wichcraft catered event at one of our unique offsite venues.

(<http://wichcraft.com/featured/featured-news/party/>)



'wichcraft gift ideas

looking for a great gift? 'wichcraft, the 'wichcraft cookbook & the four hour chef are all available at any 'wichcraft location.

(<http://wichcraft.com/locations/>)

see more news on our blog (/blog)

(<http://wichcraft.com/menu/>)

breakfast toast

goat cheese with apple & cranberry compote
on multigrain bread

(<http://wichcraft.com/menu/>)

mediterranean salad

quinoa, roasted red peppers, olives, feta &
organic greens with tahini dressing

(<http://wichcraft.com/menu/>)

roasted chicken

mushroom-brussels sprout saute, dijonnaise
& brie on ciabatta roll

browse our full menu (<http://wichcraft.com/wp-content/themes/wichcraft/menu>)

(<https://books.google.com/books?id=UgUwEAAAQAAJ>)

join our mailing list

subscribe

order

food

about

contact

menu

food

story

careers

(<http://wichcraft.com/menu/>)(<http://wichcraft.com/food/>)(<http://wichcraft.com/about/>)(<http://wichcraft.com/about/careers/>)

locations

ingredients

team

blog

(<http://wichcraft.com/location>) (<http://wichcraft.com/food/>) (<http://wichcraft.com/about/team>) (<http://wichcraft.com/blog/>)

order online

purveyors

press

press inquiries

(<http://wichcraft.com/order/>)(<http://wichcraft.com/food/>)(<http://wichcraft.com/about/>)(<http://wichcraft.com/about/press/>)

catering

gallery

community

contact

(<http://wichcraft.com/catering/>) (<http://wichcraft.com/food/gallery/>) (<http://wichcraft.com/about/>) (<http://wichcraft.com/about/contact/>)

events

videos

(<http://wichcraft.com/events/>) (<http://wichcraft.com/food/videos/>)

© 2014 wichcraft operating, llc | privacy policy (<http://wichcraft.com//privacy-policy>) | terms

& conditions (<http://wichcraft.com//terms-conditions>)

(<https://plus.google.com/108437316884337177679>)

[back to top](#)

EXHIBIT B

wichcraft

order now (<http://wichcraft.com/wp-content/themes/betterboh/order>) <http://wichcraft.com/wp-content/themes/betterboh/order>

<http://wichcraft.com/> (<http://wichcraft.com/>)

careers at 'wichcraft

catering (<http://wichcraft.com/catering/>) events (<http://wichcraft.com/events/>)

join us

careers

(<http://wichcraft.com/about/careers/careers-at-wichcraft-2/>)

benefits & culture

(<http://wichcraft.com/about/careers/benefits-culture/>)

opportunities

(<http://wichcraft.com/about/careers/opportunities/>)

at 'wichcraft our employees are at the core of everything we do, not just in theory but also in practice. we know that when we first and foremost take great care of our own team they will in turn take great care of our guests. we approach our business from a teamwork perspective and encourage learning, curiosity, and fun every step of the way.

we are a young and growing company, so we're always on the lookout for people who share our dedication to great food and excellent customer service and spirit of forward momentum. if you're interested in being a part of it all please take a look at what opportunities we have in store and what our benefits and culture could mean for you.

if you're interested in a career at 'wichcraft please fill out an application here (<https://my.peoplematter.at/wichcraft/hire>).

(<https://my.peoplematter.at/wichcraft/hire>)

join our mailing list

subscribe

order

food

about

contact

menu

food

story

careers

(<http://wichcraft.com/menu/>) (<http://wichcraft.com/food/>) (<http://wichcraft.com/about/>) (<http://wichcraft.com/about/careers/>)

locations

ingredients

team

blog

(<http://wichcraft.com/locations/>) (<http://wichcraft.com/food/ingredients/>) (<http://wichcraft.com/about/team/>) (<http://wichcraft.com/blog/>)

order online

purveyors

press

press inquiries

(<http://wichcraft.com/order-online/>) (<http://wichcraft.com/food/purveyors/>) (<http://wichcraft.com/about/press/>) (<http://wichcraft.com/about/press/>)

catering

gallery

community

contact

(<http://wichcraft.com/catering/>) (<http://wichcraft.com/food/gallery/>) (<http://wichcraft.com/about/community/>) (<http://wichcraft.com/about/contact/>)

events

videos

(<http://wichcraft.com/events/>) (<http://wichcraft.com/food/videos/>)

EXHIBIT C

'wichcraft


Application Steps

1. Welcome
2. Select a Location
3. Select Jobs
4. What to Expect
5. Your Account
6. Your Availability
7. Tell Us About Yourself
8. Tell Us More About You...
9. Legal Information
10. What are you looking for
11. Employment History
12. Education
13. References
14. Volunteer or Military Ex.
15. Referrals and Relatives
16. Job Presence and Behav.
17. Abilities and Position Re.
18. A couple more question.

SELECT A LOCATION

Search Locations or

Select the locations you want to apply to.

 [View a full map](#)**2 Miles**
from you**'wichcraft HQ/Corp**11 E 20th St New York , NY 10003 [View map](#)**2 Miles**
from you**'wichcraft NYC**11 E 20th St New York , NY 10003 [View map](#)[Previous](#)[Next](#)

Application Progress

powered by **PEOPLEMATTER**® [Terms and Conditions](#) [Privacy Policy](#)[Need Help?](#)[PeopleMatter Support](#)

EXHIBIT D

wichcraft

order now (<http://wichcraft.com/wp-content/themes/betterboh/order>)

con

<http://wichcraft.com/>

our menu

catering (<http://wichcraft.com/catering/>) events (<http://wichcraft.com/events/>)

We take pride in our menu of seasonal, fresh food. all of our food is prepared daily by our chefs, and we work with the same high quality purveyors found at many of the top restaurants in new york and san francisco. satisfy your cravings all day long from our pastries baked from scratch to our savory lunchtime sandwiches.

While our menus vary slightly by location, you can expect to find delicious, hand-crafted items like these at your nearest 'wichcraft.

We have expanded menus at some of our locations. our chelsea piers menu features grill items and an expanded kids' menu, and our southwest porch menu at bryant park offers a full bar, grill & more.

browse our menus

breakfast & lunch
chef's daily special
grill menu & kids' menu
frozen yogurt menu
southwest porch menu

seasonal items
in-store only

breakfast & lunch menu

this menu is served at all 'wichcraft locations, but certain items may not be available at all locations.

our breakfast menu is served until 10:30 am mon through fri & all day on weekends. lunch is served every day from 10:30 am.

download the nyc menu. (<http://wichcraft.com/wp-content/uploads/2014/10/NYC-Menu-for-Website.pdf>)

download the sf menu. (<http://wichcraft.com/wp-content/uploads/2014/10/SF-Fall-2014-Menu.pdf>)

breakfast

		calories
hard-boiled eggs & bacon	gorgonzola & frisée on ciabatta roll	\$7.12 508
18 calories		
vegetable frittata	potato, roasted tomato & gruyere on ciabatta roll	\$7.80 676
16 calories		
croissant 'wich	two fried eggs & aged cheddar on butter croissant	\$6.89 455
15 calories		
hard-boiled eggs & brisket	roasted tomato & frisée on ciabatta roll	\$8.49 609
9 calories		
avocado breakfast toast	lemon & olive oil on toasted multigrain bread	\$3.90 352
2 calories		
stuffed cheese breakfast toast	with apple & cranberry compote on toasted multigrain bread	\$3.90 351
1 calories		

bagels	plain, multigrain or everything with choice of one spread	\$2.30	338-350
	338-350		
	calories		
preads	butter, cream cheese, peanut butter or seasonal fruit preserves	\$0.69	43-173
	43-173		
	calories		
rganic steel-cut oatmeal	with choice of two toppings	\$3.90	63-261
	63-261		
	calories		
reek-style yogurt	fage classic or oikos 0% fat with choice of two toppings	\$4.82	178-509
	178-509		
	calories		
ppings	fresh fruit salad, peanut butter, 'wichcraft granola, toasted coconut chips, seasonal fruit preserves, toasted	\$0.69	71-190
	mpkin seeds, dried fruit or roasted nuts		
	71-190		
	calories		

sandwiches

ed eggs & bacon	gorgonzola & frisée on ciabatta roll	\$7.12	508
	18 calories		
usage frittata	potato, roasted tomato & gruyere on ciabatta roll	\$7.80	676
	6 calories		
at cheese	avocado, celery, walnut pesto & watercress on multigrain bread	\$8.96	797
	7 calories		
aised brisket	celery root-kohlrabi horseradish slaw & cheddar on ciabatta roll	\$10.33	768
	8 calories		
ickpea hummus	seasonal vegetable salad, tahini, za'atar & mint pesto on ciabatta roll	\$7.35	622
	2 calories		
le-caught tuna	fennel, nicoise olive tapenade, aioli & lemon confit on ciabatta roll	\$8.96	774
	4 calories		
isted chicken	mushroom-brussels sprout sauté, dijonnaise & brie on ciabatta roll	\$9.64	707
	7 calories		
inky pb&j	with greenmarket fruit preserves on multigrain bread	\$5.05	701
	1 calories		
sted turkey	avocado, bacon, onion relish & aioli on ciabatta roll	\$10.10	750
	0 calories		
rf's daily special sandwich	limited quantity of our chef's sandwich of the day	\$mp	
	calories		

essed sandwiches

an-style pork & ham	pickles, aji verde & gruyère on ciabatta roll	\$10.33	816
	0 calories		

butternut squash	currants, hazelnut brown butter & mozzarella on ciabatta roll	\$7.35	756
756 calories			
heritage smoked ham	poached pears, dijon mustard & aged cheddar on cranberry pecan bread	\$8.50	555
555 calories			
grilled cheese	with aged cheddar on ciabatta roll	\$5.97	407
407 calories			

salads on organic mixed greens

Mediterranean	quinoa, roasted red peppers, olives, feta & organic greens with tahini dressing	\$10.10	565
565 calories			
Turkey & quinoa	sweet potatoes, dried cranberries, pepitas & organic greens with cranberry vinaigrette	\$10.10	907
907 calories			
Lima & farro	avocado, fennel & organic greens with lemon vinaigrette	\$10.10	595
595 calories			
Organic mixed greens	parmesan with lemon vinaigrette	\$5.05	387
387 calories			

soups

tomato soup	\$5.05	191
with basil, sherry vinegar & parmesan		
tomato soup		
with basil, sherry vinegar & parmesan		
	191 calories	\$5.05
soup of the day	\$5.05	255-447
soup of the day		
	255-447	
	calories	
soup & 1/2 sandwich	\$9.18	469-856
goat cheese, chickpea hummus or pole-caught		
sa or grilled cheese		
soup & 1/2 sandwich		
goat cheese, chickpea hummus or pole-caught		
sa or grilled cheese		
	469-856	\$9.18
	calories	

des

marinated chickpeas	\$1.84	185
sley, red onion & oregano		
marinated chickpeas		
sley, red onion & oregano		
	185 calories	\$1.84
potato salad	\$1.84	133
hard-boiled egg & crème fraîche		
potato salad		
hard-boiled egg & crème fraîche		
	133 calories	\$1.84
market side	\$2.07	103-239
market side		
	103-239	
	calories	

cold beverages

spindrift soda	\$3.21	60-80
spindrift soda		
	60-80 calories	
liquiteria cold-pressed juices	\$8.73	-
liquiteria cold-pressed juices		
	\$8.73	
	- calories	
boyman or san pellegrino soda	\$2.30	0-180
boyman or san pellegrino soda		
	\$2.30	
	0-180 calories	
red jacket juices	\$2.76	100-180
red jacket juices		
	\$2.76	
	100-180	
	calories	
lemonade	\$2.07	43-54
lemonade		
	\$2.07	
	\$2.30	
	43-54 calories	
100% all natural orange juice	\$3.21	110
100% all natural orange juice		
	\$3.21	
	110 calories	
saratoga spring water	\$1.84	0
saratoga spring water		
	\$1.84	
	\$2.76	
	0 calories	
saratoga sparkling water	\$2.30	0
saratoga sparkling water		
	\$2.30	
	0 calories	
coke or diet coke	\$1.61	0-140
coke or diet coke		
	\$1.61	
	0-140 calories	
harmless harvest coconut water	\$3.21	56
harmless harvest coconut water		
	\$3.21	

725 calories			
tuesday: five spice pork loin	glazed pears & braised red cabbage on ciabatta	\$10.10	602
302 calories			
wednesday: roasted chicken	red pepper ragout, basil pesto & mozzarella on grilled country bread	\$10.10	775
775 calories			
thursday: meatball	tomato sauce, garlic butter, ricotta & parmesan on baguette	\$10.56	1175
1175 calories			
friday: spicy wild shrimp	vietnamese vegetable slaw & cilantro aioli on baguette	\$10.56	649
649 calories			
saturday & sunday: eggs ranchero	black beans, guajillo chili crema, queso fresco & avocado on ciabatta	\$8.50	620
620 calories			

grill menu & kids' menu

these menus are available only at chelsea piers.

kids' meals are only available for in-store purchase.

download this menu. (<http://wichcraft.com/wp-content/uploads/2014/10/CP-Fall-Menu.pdf>)

grill menu

			calories
cheeseburger	aged cheddar, pickles, kale & burger sauce on potato roll	\$9.87	816
816 calories			
eggie burger	kale, pickles & burger sauce on potato roll	\$9.64	667
667 calories			
grilled chicken sandwich	coleslaw & bbq aioli on ciabatta roll	\$9.87	890
890 calories			
houille sausage	relish, mustard & roasted onions on potato roll	\$9.64	592
592 calories			
chicken fingers	honey mustard & fries	\$8.04	661
661 calories			

kids' menu

grilled cheese	cheddar cheese on pullman white	\$4.82	558
558 calories			
chicken pb&j	fruit preserves on pullman white	\$4.82	682
682 calories			
hot dog	on potato roll	\$4.82	240
240 calories			
grilled caught tuna	on pullman white	\$5.51	502
502 calories			
chicken fingers	with french fries	\$5.51	522
522 calories			

522 calories		
cheeseburger	on potato roll	\$5.51 570
570 calories		
mac&cheese	aged cheddar & fontina	\$7.35 766
666 calories		
ries		\$2.99 320
20 calories		

frozen yogurt menu

this menu is available only at chelsea piers.

frozen yogurt

		calories
tonyfield organic frozen yogurt	tart vanilla with choice of two toppings	\$4.82 130
30 calories		
ice per topping	mix & match our sweet & savory hand-crafted toppings	\$.69 29-271
29-271		
calories		

toppings

auce	greenmarket buckwheat honey, salted caramel sauce, homemade chocolate sauce	
calories		
lit	poached pineapple, apple & cranberry compote, red wine spiced cherries, toasted coconut chips	
calories		
reet	semisweet chocolate chips, chocolate cookie crumbs, peanut butter cookie crumbs, graham cracker crumbs	
calories		
vory	cacao nibs, wichcraft handcrafted granola, roasted nus (hazelnuts, almonds & pecans), martin's handmade zels, toasted pumpkin seeds	
calories		

southwest porch menu

this menu is only available at bryant park.

ownload this menu. (http://wichcraft.com/wp-content/uploads/2014/05/PorchMenu_Bryant_2014-Spring_4.25x11-noCrops.pdf)

its

ch cheddar burger	aged cheddar, pickles, kale & burger sauce on a potato roll (add bacon \$1.84)	\$10.79
seradish cheddar burger	aged cheddar, horseradish cream & roasted onions on a potato roll (add bacon \$1.84)	\$10.79

veggie burger	brussels sprouts, carrots, dill, fennel seeds, kale, pickles & burger sauce on a potato roll	\$9.64
andouille sausage	relish, roasted onions & brown mustard on a potato roll	\$9.64
grilled chicken sandwich	coleslaw & bbq aioli on a ciabatta roll	\$10.79
slow roasted berkshire pork	coleslaw & bbq aioli on a ciabatta roll	\$10.79
roasted turkey sandwich	avocado, bacon, onion relish & aioli on ciabatta roll	\$10.79
pole-caught tuna on greens	fennel, green olives & lemon confit on organic mixed greens with lemon vinaigrette	\$8.96
chickpea hummus on greens	seasonal vegetables, tahini, za'atar, mint pesto & organic mixed greens with lemon vinaigrette	\$7.35
zucchini & hummus dips	chickpeas, red peppers, tomato & grilled ciabatta	\$8.27
guacamole	jalapeño, cilantro, lime & tortilla chips	\$9.18

beer

peak organic seasonal	portland, me	\$7.35
mama's little yella pilsner	longmont, co	\$7.35
ommegang rare vos	cooperstown, ny	\$7.35

wine

malbec, ell rede	mendoza, 2012	\$8.27
sauvignon blanc, y+b	mendicino, certified organic, 2012	\$8.27
pinot grigio, gazerra	sicily igt, 2012	\$8.27
tempranillo, katas	rioja, 2011	\$8.27

sparkling

cliffon dry sparkling cider	finger lakes region of ny	\$7.35
prosecco garbel 13, adami	trentino-alto adige, nv	\$10.10

cocktails

margarita	silver tequila, triple sec, lime juice	\$11.02
white wine sangria	sparkling wine, peach schnapps, mango, pineapple	\$11.02
vodka watermelonade	tito's vodka, watermelon, lemon juice	\$11.02
cucumber gimlet	greenhook ginsmiths gin, cucumber juice, lime juice	\$11.02
bourbon lemonade	12 year aged bourbon, homemade lemonade, fresh thyme	\$11.02

other drinks

soft drinks	pepsi, diet pepsi, sierra mist, lemonade, iced tea, ginger ale & cranberry juice	\$2.76
premium mixed drinks		\$11.94
mixed drinks		\$10.10

EXHIBIT E

'wichcraft catering

breakfast

sandwiches (5 person minimum).....	\$8
heritage smoked ham avocado & gruyère on ciabatta roll	
fried eggs & bacon gorgonzola & frisée on ciabatta roll	
chunky pb&j with greenmarket fruit preserves on multigrain bread	
fried eggs & brisket (\$2 supplement) roasted tomato & frisée on ciabatta roll	
greek yogurt & 'wichcraft's own granola	\$5
homemade granola with fage classic orikos 0% fat greek-style yogurt & honey	
brûlée cinnamon rolls (serves 15).....	\$40
bagels plain, everything & multigrain served on a platter with butter & cream cheese	
small platter (serves 6).....	\$24
large platter (serves 12).....	\$42
<i>(bagel orders must be placed by 2pm the previous business day)</i>	
mini seasonal breakfast sweets coffee cake, scones & breakfast breads	
small platter (serves 8-12).....	\$40
large platter (serves 12-15).....	\$60
fruit salad	
bowl (serves 10).....	\$25

breakfast packages (10 person minimum)

light breakfast	\$14 per person
assorted bagels, mini breakfast sweets, fruit salad, coffee & juice	
full breakfast	\$18 per person
sandwiches, assorted bagels, mini breakfast sweets, fruit salad, coffee & juice	
add greek yogurt & 'wichcraft's own granola	\$5 per person

boxed breakfast (5 person minimum)

breakfast sandwich, chocolate chip scone, fruit salad & juice.....	\$16 per person
add greek yogurt & 'wichcraft's own granola	\$5 per person

beverages

la colombe coffee (serves 8-10).....	\$25
served with half & half, whole milk,	
skim milk & assorted sugars	
mighty leaf hot tea (serves 8-10).....	\$25
served with lemon & honey	
house-made drinks	
iced tea.....	Individual (12 oz) \$2.30
lemonade.....	pitcher (serves 8-10) \$25
	Individual (12 oz) \$2.30
	pitcher (serves 8-10) \$25
	boylan soda.....
	creme soda, diet creme soda, ginger ale,
	root beer & diet root beer

sweets

signature cream 'wiches

an assortment of four flavors: chocolate with chocolate ganache filling, chocolate chip with cream filling, peanut butter with peanut butter filling & oatmeal with caramel filling

pastry box (serves 4-6).....	\$20
small platter (serves 8-12).....	\$40
large platter (serves 12-15).....	\$60
mini chocolate cupcakes (pack of 12).....	\$18

seasonal items

lunch

sandwiches (5 person minimum).....	\$12 per sandwich
served on a platter, cut in half & labeled	
chickpea hummus seasonal vegetable salad, tahini, za'atar & mint pesto on ciabatta roll	
pole-caught tuna fennel, nicotise olive tapenade, aioli & lemon confit on ciabatta roll	
goat cheese avocado, celery, walnut pesto & watercress on multigrain bread	
chunky pb&j with greenmarket fruit preserves on multigrain bread	
roasted turkey avocado, bacon, onion relish & aioli on ciabatta roll	
roasted chicken mushroom-brussels sprout sauté, dijonaise & brie on ciabatta roll	
cuban-style pork & ham pickles, aji verde & gruyère on grilled ciabatta roll	
heritage smoked ham poached pears, dijon mustard & aged cheddar on grilled cranberry pecan bread	
butternut squash currants, hazelnut brown butter & mozzarella on grilled ciabatta roll	
grilled cheese with aged cheddar on ciabatta roll	
entrée salads	small salad (serves 6-8) \$60
large salad (serves 10-12) \$120	
mediterranean quinoa, roasted red peppers, olives, feta & organic greens with tahini dressing	
turkey & quinoa sweet potatoes, dried cranberries, peptas & organic greens with cranberry vinaigrette	
tuna & farro avocado, fennel & organic greens with lemon vinaigrette	
sides (serves 10)	
organic greens shaved parmesan cheese & lemon vinaigrette.....	\$30
marinated chickpeas parsley, red onion & oregano.....	\$25
potato salad soft-boiled egg & crème fraîche.....	\$25
market sider, roasted squash & quinoa salad, pecans & sherry vinaigrette.....	\$25
seasonal fruit salad.....	\$25
tomato soup.....	\$48
tim's potato chips.....	\$1.15 each

lunch packages

light lunch (5 person minimum).....	\$14 per person
assorted sandwich platter & tim's chips	
full lunch (10 person minimum).....	\$19 per person
assorted sandwich platter, side, tim's chips & signature cream 'wiches	
ultimate lunch (10 person minimum).....	\$23 per person
assorted sandwich platter, entrée salad, side, tim's chips & signature cream 'wiches	

boxed lunch (5 person minimum)

sandwich (chickpea hummus, pole-caught tuna, roasted chicken, roasted turkey, goat cheese or pb&j), tim's chips, signature cream 'wich & beverage (saratoga spring water, house-made iced tea or lemonade).....	\$18 per person
add a side (potato salad, marinated chickpeas or fruit salad).....	\$1 per person

afternoon snacks (orders must be placed by 2pm the previous business day)

crudités & hummus platter (serves 12) seven seasonal vegetables served with hummus & crème fraîche dill dip.....	\$55
assorted cheeses (serves 12) cheddar, young manchego & aged gouda, roasted nuts & fruit accompaniment with sliced ciabatta.....	\$70
assorted cured meats (serves 12) soppressata, dry-cured smoked ham, black peppercorn salami, mixed olives & roasted peppers served with sliced ciabatta.....	\$70
cured meat & cheese (serves 15) soppressata, dry-cured smoked ham, black peppercorn salami, cheddar, young manchego, aged gouda, mixed olives & roasted peppers served with sliced ciabatta.....	\$95

(212) 780-0577 ext. 4 or e-mail catering@wichcraft.com

all orders are subject to a 7% gratuity and a 3% administrative fee